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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

- - - - - x
In the Matter of the Petition of :
NORTHWEST UNITED EDUCATORS :
To Initiate Mediation-Arbitration :
Between Said Petitioner and :
SCHOOL DISTRICT OF AMERY :
- - - - - x

Case XIV
No. 26610
MED/ARB-823
Decision No. 18195-A

APPEARANCES:

Kenneth Cole, Wisconsin Association of School Boards, on behalf of the District.

Alan D. Manson, Northwest United Educators, on behalf of NUE-Amery.

On November 5, 1980, the Wisconsin Employment Relations Commission appointed the undersigned as Mediator-Arbitrator, pursuant to 111.70 (4) (cm) 6.b. of the Municipal Employment Relations Act in the matter of a dispute existing between Northwest United Educators-Amery, referred to herein as the Union, and School District of Amery, referred to herein as the District. Pursuant to the statutory responsibilities, the undersigned conducted mediation proceedings between the Union and the District on December 30, 1980. Said mediation effort failed to result in voluntary resolution of the parties' dispute. The matter was thereafter presented to the undersigned in an arbitration hearing conducted on the same date for final and binding determination. Briefs were filed by both parties by February 13, 1981. Based upon a review of the evidence and arguments and utilizing the criteria set forth in Section 111.70 (4) (cm), Wis. Stats., the undersigned renders the following award.

The merits of the parties' final offers on each issue in dispute will be analyzed and discussed initially on an individual basis before the undersigned considers and discusses the relative merits of each party's total final offer. The issues in dispute involve:

1. the salary schedule
2. a layoff procedure
3. long-term disability insurance
4. an early retirement program
5. calendar make up days.

The parties also disagree on what constitutes comparable school districts. Since the issue has an impact on several of the remaining substantive issues in dispute, it will be discussed first.

Arguments

Comparables

Both the District and the Union have identified the school districts in the Middle Border Conference as being comparable. These districts and their enrollments are as follows:

Baldwin	1121
Durand	1156
Ellsworth	2140
Hudson	2752
Mondovi	1170
New Richmond	1990
River Falls	2257
Amery	1700

The District argues that contiguous districts are also comparable because they are adjacent to Amery, and Amery is the northern most school in the Conference.

Contiguous districts and their enrollments are as follows:

Clayton	349
Clear Lake	653
Osceola	1128
St. Croix Falls	994
Turtle Lake	633
Unity	1166

The District notes that several contiguous districts, namely Osceola, St. Croix Falls, and Unity have enrollments that are substantially equivalent to the Conference schools of Baldwin, Durand and Mondovi.

It also contends that the District has at least an equivalent amount of interaction with its neighboring districts because all of said districts are located and participate in CESA #4.

The District also points out that the Conference school districts of Durand, Mondovi, and Prescott are quite some distance away from the Amery District. If comparisons with districts that far to the south are relevant, then comparisons with districts of similar size to the north and west that are closer or an equal distance away from the Amery District are also relevant.

The Union contends that the Middle Border Athletic Conference is the best basis for comparability for purposes of this proceeding.

The District has an enrollment of 1700, which is above the Conference average of slightly less than 1600. Since athletic conferences are established on the basis of similar size and geography, it is generally accepted that such groups of schools serve as primary groups for purposes of these proceedings.

The District is more than twice the size of the average of the six contiguous districts. This fundamental difference, plus the reliance of both parties on the Middle Border Conference for comparability throughout the negotiations, indicates, in the Union's opinion, that the Conference is the best basis for comparability.

The Union further contends that since the Baldwin contract is a two-year agreement that was negotiated in 1979, it is not as valid for purposes of comparison as the other six contracts in the Conference. The 1980-81 Amery contract, as well as the other six contracts in the Conference, were negotiated in a different economic climate than the two-year Baldwin pact.

Discussion

Since the parties agree that the districts in the Middle Border Conference are comparable, there is no reason for the undersigned not to utilize the practices and benefits in said districts in evaluating the reasonableness of the parties' respective positions here, utilizing the criterion of comparability.

The undersigned accepts in part the District's arguments on the comparability issue to the extent that for purposes of the instant proceeding, at least some of the contiguous districts will be deemed comparable districts since they share geographic proximity, they all participate in CESA #4, and they have enrollments substantially equivalent to several Middle Border Conference schools which are conceded by both parties to be comparable. The contiguous districts which are deemed to be comparable by the undersigned are Osceola, St. Croix Falls, and Unity.

Salary Schedule

On the salary schedule issue, the parties are \$25 apart at the

base, with the District offering a base of \$11,150 and the Union proposing \$11,175.

The parties have agreed to retain the salary schedule index in existence in the 1979-80 contract. That index is based on percentages and therefore the \$25 difference in the base figure is proportionately the same at any step in the schedule.

In addition, the District has offered a longevity payment of \$300 to teachers beyond the last step of the schedule, while the Union has proposed that the longevity payment should be 2% of the last step of each lane of the schedule, creating a \$15 to \$77 difference in the longevity payments being proposed by the parties.

Arguments

The District contends that its position with respect to the salary schedule when compared to the other schools in the Middle Border Conference is reasonable.

<u>SCHEDULE POSITION</u>	<u>RANK</u>		<u>DOLLAR</u>	
	<u>AMERY BOARD OFFER</u>	<u>1979-80</u>	<u>1980-81</u>	<u>DIFFERENCE TO AVERAGE</u>
			<u>1979-80</u>	<u>1980-81</u>
BA Base	4	2	(43)	+36
BA Lane Max	1	1	+1031	+1015
BA Max	8	7	(824)	(904)
MA Base	2	1	+315	+435
MA Max	7	6	(361)	(514)
Sched. Max.	4	3	+229	250

Based upon the above table, the District's offer would improve its ranking in every category except one, the BA lane max, where the District was already number one in the Conference.

In terms of comparisons with average amounts at each schedule level, the District has improved in three areas and has dropped slightly in three other areas.

The low ranking at the BA maximum level is the result of the fact that the District has relatively fewer lanes in the schedule between the BA and MA degrees than do comparable districts. The highest BA lane in the District is BA +15 while other Conference schools have BA +22 to BA +60 credit lanes in their schedules.

With respect to absolute dollar increases, only two districts increased their BA base and BA lane maximum by larger amounts than that offered by the District. The increases in the BA maximum again reflect the fact that the District has fewer lanes than other districts.

In addition, the District asserts that the increases offered by the District at the MA base (\$896), the MA lane maximum (\$1344), and the MA or schedule maximum (\$1456) are all reasonable increases.

When comparing the District's salary offer to the schedules of contiguous districts, the following table summarizes the relationship.

<u>SCHEDULE POSITION</u>	<u>AMERY BOARD RANKING</u>		<u>DOLLAR</u>	
	<u>1979-80</u>	<u>1980-81</u>	<u>DIFFERENCE TO AVERAGE</u>	<u>1980-81</u>
			<u>1979-80</u>	<u>1980-81</u>
BA Base	4	4	(32)	(165)
BA Lane Max.	1	2	+714	+466
BA Maximum	4	3	+337	+51
MA Base	2	2	+429	+365
MA Lane Max.	2	3	+482	+165
MA Maximum	1	2	+1394	+1193

The above table shows that the District ranks very high at all levels of the schedule. Although there would be some reduction in the ranking taking place at the schedule maximums, the District points out that this is the first year that the District has added the \$300 longevity payment. In this regard, only the Clear Lake School District

has a similar longevity plan. Therefore, if the \$300 were added to the District maximums, the District's ranking would remain unchanged, and its position relative to the averages would improve substantially.

Utilizing the 1979-80 staff, and assuming that no change in staffing occurred, the District contends that the value of its offer amounts to an 11.02% increase, while the value of the Union's offer amounts to 11.46%. These percentages pertain to the value of the parties' total economic packages.

The Consumer Price Index is calculated as having increased by 11.3% in the Small Metro Areas from August 1979 to August 1980. The District believes that the August to August period is appropriate because this is the period of time that has elapsed since the prior wage adjustment, and the date on which the increases will take effect.

The District points out that the increase in the Minneapolis-St. Paul area was only 9.7% for Urban wage earners and clerical workers, or 10.2% for all urban consumers.

Therefore, it argues that the Union's offer is in excess of the price index increases.

The District further contends that the increases that individual teachers would get under its offer are quite reasonable, ranging from 8% to 15% without longevity payments. Even those teachers receiving percentage increases of 8% are receiving increases in absolute dollars that are equivalent to the increases of those teachers receiving increases of 10% or more. If longevity increases are added to the increases generated by the salary schedule adjustment, then no teacher would receive an increase of less than about 9.5%. Furthermore, those persons receiving longevity payments would receive among the largest increases in terms of absolute dollar amounts. If the new benefits of dental and long-term disability insurance are added to the salary adjustments, it is likely that no teacher would receive less than a 10% increase if the District's offer is implemented.

With respect to longevity, the District notes that only one contiguous district has adopted a longevity provision. Although the schools in the Middle Border Conference have more lucrative longevity provisions with the exception of Mondovi and New Richmond, the District argues that since it has one of the best salary schedules in the Conference, it should not be expected to have the best longevity provisions as well. The District has spent its available resources in making schedule adjustments and not in providing longevity increases. It should not be required to do both.

The District contends that the overall level of benefits provided by the District is equivalent to or in excess of both the Middle Border Conference schools or the neighboring districts. The District has a fully paid dental program similar to those offered by all but one of the Conference districts. However, only one contiguous district even offers a dental plan, and that district is Osceola.

As to long-term disability insurance coverage, currently, two of the Conference schools do not have such a plan, and three of the contiguous districts do not have such a plan.

The Union notes that in the six parts of the schedule chosen for examination by the District, the District's rank changes only in one area, the BA base, where both offers advance from fourth of eight to third of eight by passing Baldwin. Both final offers remain below the Conference average for the BA base. Of the six comparisons on the schedule, three are over the average and three under the average in both 1979-80 and 1980-81 with either final offer.

However, when the parties' salary offers are compared to Conference averages, differences become more apparent. Under the District's final offer the District's teachers lose ground in five of the six areas compared, while under the Union's proposal, there is a loss in three and a gain in three.

AMERY SALARIES COMPARED TO CONFERENCE AVERAGE

	79-80	District 80-81	NUE 80-81
BA Base	43 under	44 under (- 1)	19 under (+ 24)
BA Lane Top	1031 over	1008 over (- 23)	1046 over (+ 15)
BA Maximum	824 under	1067 under (-243)	1027 under (-203)
MA Base	315 over	334 over (+ 19)	362 over (+ 47)
MA Lane Top	361 under	572 under (-211)	530 under (-169)
MA Maximum	229 over	43 over (-186)	89 over (-140)

The Union argues therefore that its offer clearly shows more balance when viewed in this light.

With respect to longevity, Conference districts provide the following benefits:

1980-81 MIDDLE BORDER LONGEVITY RANGE

Baldwin	316 - 395
Durand	530 - 697
Ellsworth	165 - 410
Hudson	665 - 790
Mondovi	200 - 400
New Richmond	0 - 0
River Falls	0 - 500

Average Range: \$268 - \$456
Average Longevity: \$362

Thus, the Union argues that the District's offer of a flat \$300 is well below average, while the \$315 to \$377 Union offer is well within the average range.

When the longevity proposals are merged with the salary proposals, the following table reflects the percentage value of increases at four points on the schedule:

PERCENTAGE INCREASE FROM 79-80 TO 80-81 IN MAXIMUM SALARIES (LONGEVITY)

	BA Lane Top	BA Maximum	MA Lane Top	MA Maximum
Baldwin	6.3	7.6	7.8	8.1
Durand	12.0	12.0	12.0	12.0
Ellsworth	11.2	11.2	11.2	11.2
Hudson	10.2	10.2	10.3	10.2
Mondovi	10.0	10.6	10.4	10.3
New Richmond	8.6	9.5	9.5	10.3
River Falls	7.6	9.5	9.9	10.2
Average	9.4	10.1	10.2	10.3
Average w/o Baldwin	9.9	10.5	10.6	10.7
Median	10.0	10.2	10.3	10.3
Dist. F.O.	9.6	9.6	9.5	9.3
NUE F.O.	10.0	10.0	10.0	10.0

This comparison reveals the negative effects of the District's flat amount longevity offer as the salary schedule proceeds horizontally. While the two final offers are both close to the average at the top of the BA lane, thereafter the District's offer decreases while the averages increase. From then on the Union's steady 10% is also below the average, but less so than the District's.

The results of this comparison are verified by an examination of the rankings of the same four points on the salary schedule over a two-year period:

AMERY RANKINGS IN MIDDLE BORDER CONFERENCE 1979-80-81
(MAXIMUMS INCLUDE LONGEVITY)

	<u>1979</u>	<u>District 80-81</u>	<u>NUE 80-81</u>
BA Base	4 of 8	3 of 8 (+1)	3 of 8 (+1)
BA Lane Top	1 of 8	No Change	No Change
BA Maximum	8 of 8	No Change	No Change
MA Base	2 of 8	No Change	No Change
MA Lane Top	7 of 8	8 of 8 (-1)	No Change
MA Maximum	4 of 8	6 of 8 (-2)	5 of 8 (-1)

Since there is no ability to pay argument, it is not appropriate for the District's teachers to lose out at the tops of the salary schedule. The Union's salary offer best preserves the relative status of the District's teachers in the Conference.

The District introduced an exhibit showing the August 1979 to August 1980 CPI to be 11.3% in small metro areas and 12.7% overall. In the Union's opinion, these figures generally reflect the rise in the cost of living.

In relationship to the foregoing, the Union contends that the actual cost of both final offers will be well below 10% when staff turnover, reduction in staff, and the less than full cost of implementing either long-term disability proposal is taken into account. Thus, neither can be deemed unreasonable in light of the CPI's increase during the period in question.

The Union lastly contends that the cost of living factor should not be applied to the total package; rather, it should be applied, when feasible, to those items in dispute. In this case, salary is the only item to which the CPI can be applied.

The Union's offer proposes increases of between 8 to 10% in the salary schedule, including longevity. With the CPI in the 11 to 13% range for the year since the previous schedule was implemented the Union submits that its offer, when measured by the CPI, is preferable to that of the District.

Discussion

In all candor, the difference between the parties' positions on salaries is not all that great, which makes the selection of the more reasonable or meritorious of the two positions quite difficult.

Both parties have submitted persuasive and credible arguments in support of the reasonableness on their respective positions on the salary issue. In truth, neither position is unreasonable when viewed in light of the salary schedules in existence in comparable districts.

In light of the above and in order to make a decision with respect to this issue, the undersigned has attempted to discern any factors which distinguish the position of either of the parties from prevailing practices or patterns in comparable districts. In doing so, one factor appears to rather consistently distinguish the District's position on salaries from the settlements which have occurred for 1980-81 among comparable districts. That difference pertains to the percentage increases that have been granted to senior teachers who have earned graduate credits and who are at the top of the salary schedule.

In this regard the District's offer, in terms of percentages, falls below the averages of the percentage increases granted by the Middle Border Conference districts at the BA maximum, MA lane maximum, and MA maximum. At all three of these levels, the Conference averages exceed 10% while the District's offer ranges between 9.3% and 9.6%. Similarly, the District's offer at each of these levels is less in percentage terms than the increases granted by the three contiguous comparable districts:

	<u>B.A. Max</u>	<u>M.A. Lane Max</u>	<u>M.A. Max</u>
St. Croix	11.7%	11.7%	11.8%
Osceola	10.5%	10.5%	10.4%
Unity	11.2%	11.2%	11.2%

Although the undersigned concedes that percentages can be deceptive, since their value depends in large part upon the rate from which they are derived, and in this instance, on the number of years that it takes a teacher to reach that maximum rate, this rather uniform difference in percentages does reflect the fact that the affected senior teachers will be losing ground in relationship to teachers similarly situated in comparable districts, at least insofar as the value of the increases in their salaries will enable them to minimize losses of real income resulting from inflation.

In this regard it should be noted that depending upon what CPI index is utilized, said teachers will at best not lose real income, and at worst, some teachers might lose up to slightly more than 2% in real income under the District's offer.

In view of the foregoing, and just as importantly, in view of the fact that the Union's offer of 10% at each of these salary levels is also below the percentage value of average increases granted by the Middle Border Conference districts, the undersigned is persuaded that the Union's salary offer is slightly more in line with the settlements reached in comparable districts for the 1980-81 school year than the District's offer, and therefore, said offer is deemed to be slightly more reasonable than the District's.

Layoff

The parties' previous agreement did not contain a layoff clause.

The parties are in agreement in principle on a seniority based layoff procedure, however, they are not in agreement on several of the specifics of the procedure that will govern staff reductions.

Arguments

In the Union's opinion the most significant difference in the layoff proposals centers on the failure of the District to recognize partial layoff as a concept. It therefore contends that the District's proposal leaves a gaping hole in job security and the concept of fairness.

The District contends that the issue regarding the application of the staff reduction provision to the reduction of hours of teachers should not be a significant problem or a major issue in this arbitration given the duration of the agreement and the timing of this arbitration proceeding.

Both parties' proposals regarding staff reductions would result in the staff reduction occurring at the end of the school year. In terms of impact, the District argues that there is no real difference between the proposals except that the Union's proposal requires the District to issue multiple notices and to participate in a private conference if requested by the individual teacher. The District does not feel that these steps are necessary. The District also points out that if the Union position is accepted by the arbitrator and the decision is not issued until after the end of February, then the District would be prevented from instituting staff reductions if any were contemplated, since the March 15 preliminary notice date would have passed.

The District contends that the label utilized in the contract to refer to staff reductions is of no consequence. Other districts among comparables refer to layoffs as staff reductions. The specific designation is not important so long as it is not ambiguous and the parties recognize the situations that the provision addresses.

The Union contends that while the use of "unrequested leave of absence" in lieu of "layoff" by the District does not appear to be important, the potential for legal wrangling is certainly greater than if the term "layoff" were used in the layoff provision.

The Union asserts that other minor differences in the two layoff proposals include the following:

While both offers separate part-time employees from full-time employees for bumping rights, the Union's offer distinguishes between

a part-time employee who is part-time as a result of layoff; while both proposals acknowledge the validity of temporary DPI approval, the Union's proposal reflects the terms actually used by DPI - "special license" and "permit" - for such temporary approval while the District's offer uses the phrase "limited certificate" in addition to temporary DPI approval; the NUE offer would break a seniority tie by a coin flip, rather than involving the District in a subjective decision between two qualified employees; and the Union's offer clearly provides the laid off employee the right to participate in the group health insurance plan at no cost to the District.

Discussion

Of the several issues separating the parties regarding a procedure regulating staff reductions, the question whether such procedures should apply to circumstances wherein certain teachers' hours are to be reduced would seem to be the most significant issue from the Union's perspective, while the notice requirements will probably have the most significant impact from the District's point of view.

With respect to both of these issues, the undersigned believes that the final offers of neither party adequately address the complex issues raised therein.

With respect to the reduction in hours issue, the undersigned concurs with Arbitrator Kerman's conclusion in Turtle Lake School Dist.1/ that if the parties have in place a seniority based layoff procedure, said procedure should also apply to situations where the reduction in teachers' teaching loads or hours might be necessitated for the same reasons that a reduction in staff would be needed. In this regard at least, the Union's final offer is more reasonable than the District's. However, with respect to this specific issue, several questions remain unaddressed by the Union's final offer which could cause future disagreements between the parties. One question which immediately comes to mind is whether said clause is applicable to part-time teachers whose teaching load has traditionally fluctuated for a variety of reasons? If so, should it? The Union's proposal makes no distinction between teachers who traditionally have had fluctuating teaching loads and those teachers who have had stable teaching loads who might be subject to a reduction in their teaching load in lieu of a total layoff. In the undersigned's opinion there is some merit to treating these two types of situations differently, and accordingly, the Union's failure to address the issue diminishes somewhat the merits of its position.

With respect to the parties' disagreement over the notice provisions in their layoff proposals, since both agree that layoffs are to occur only at the end of a school year, it is not unreasonable for the Union to seek to obtain, under normal circumstances, a reasonable period of time prior to the actual layoff for notification of same in order to afford the affected teacher a reasonable opportunity to seek alternative employment for the following school year. In this regard then, the Union's proposal is the more reasonable of the two. However, such notification requirements might be reasonably qualified or limited in situations where layoffs may be necessitated by emergency circumstances beyond the District's control, as opposed to situations where the factors necessitating the layoff are within the District's knowledge at a time sufficient to allow for planning and notification of the affected teachers. Again, because the Union's proposal does not give recognition to this possibility, legitimate problems for the District might arise. Accordingly, if the Union's proposal were adopted, further attention to this and other related issues might be necessary in future negotiations.

In response to the District's argument that adoption of the Union's layoff proposal would foreclose layoffs this year, nothing prevented the District from giving preliminary notice to potentially affected

^{1/}Case XII No. 24915 MED/ARB 482 Dec. No. 17601-A.

teachers by March 15 in order for the District to have preserved its options later this year. Thus, if layoffs are currently planned, the District has not been deprived of a reasonable opportunity to effectuate said layoffs.

The undersigned is of the opinion that the designations given a reduction in staff, so long as there is a clear mutual understanding of the meaning of said designation, is relatively insignificant. However, since no persuasive reason has been presented by the District to utilize the phrase "unrequested leave of absence" instead of the term "layoff" and since the latter term is more commonly utilized and understood, there is less likelihood that disagreements will arise in the future if the latter term is utilized, and accordingly, the Union's offer in this regard is slightly preferable to that of the District's.

Of the remaining minor differences which exist between the parties in their reduction in staff proposals, in the undersigned's opinion, those of consequence are as follows:

The District's proposal is preferable and more reasonable as it pertains to the District's right to select between qualified teachers who have absolutely identical seniority, and who are in the same cell on the salary schedule, for in such instances, seniority protection has been afforded to its fullest, and there is no justifiable reason to deprive the District of its right to exercise discretion in such circumstances, so long as such discretion is not exercised unfairly.

Lastly, the Union's proposal is preferable and more reasonable in affording laid off teachers the right to participate in the group health insurance plan at no cost to the District, at least so long as said teachers have reinstatement rights under the layoff plan. Perhaps it should be noted that it is not clear in the record how such a provision would be applied to a teacher whose teaching load and hours were reduced in lieu of a total layoff. Unless pro rata benefits are the practice or are prescribed in the contract, some questions and possible disagreements may arise in the future, if the Union's proposal were adopted, as to what portion, if any, of the paid health insurance benefit such teachers might be entitled to.

For all of the foregoing reasons, the undersigned is persuaded that the Union's proposal on staff reduction, though flawed in some respects and in need of further refinement and development, is the more reasonable of the two proposals submitted in this proceeding.

Long-Term Disability

The District wants to limit its contribution to Long-Term Disability insurance to 50% of the premium, but no more than a total of \$2000. The Union proposes that the District pay the full premium, and guarantees that the premium will not cost the District more than \$4.50 per month per employee.

Arguments

The Union contends that since there is no long-term disability plan now in effect in the District, the economic impact of this issue diminishes as the school year progresses. This condition, when coupled with the fact that ability to pay is not an issue, elevates the relative importance of comparability. In this regard, five of the seven Middle Border Schools have long-term disability insurance fully paid by the District.

Discussion

When viewing the long-term disability issue on its own merits, and not as part of a total economic package, the undersigned is persuaded that the use of comparables support the reasonableness of the Union's position. Five of the 10 comparable districts have in place for 1980-81 a fully paid long-term disability benefit. If the Union's proposal were adopted, the benefit would not go into effect until sometime in the spring of 1981. Therefore, the teachers will have the same long-term disability protection for the full 1981-82 school year that the teachers in half of the comparable districts have had this year. Clearly, the Union's proposal reflects a benefit trend which seems to be gaining momentum in public education and which has become evident in the form of recently improved and newly implemented similar

benefits in comparable districts. Accordingly, the Union's proposal is deemed to be the more reasonable of the two positions on this issue. Again, it must be emphasized this conclusion is based upon an analysis of the merits of the proposal standing alone, utilizing the criterion of comparability.

Early Retirement

The Union has proposed an early retirement plan with the District paying a portion of the fringe benefits, while the District has proposed not adopting such a plan.

Arguments

The Union contends that there are several similarities between the long-term disability issue and the issue of early retirement. With respect to both benefits, five of seven districts provide voluntary early retirement plans. The Union proposal is for the State STRS plan which is the early retirement plan in effect in four of the five schools.

The Union contends that its proposal is quite similar to these four in two areas where modifications are frequently made. The Union has proposed an eligibility requirement of ten years of service; Baldwin and Ellsworth require ten years service, Durand requires 15 years, and New Richmond has no such requirement. The Union proposes that the District pay full single health insurance and one-half the family premium for early retirees to age 65; all five other early retirement plans provide at least that much, with four paying the full family insurance costs.

The District argues that the Union has not offered any evidence that an early retirement benefit is necessary in the District in terms of the number of eligible employees in the District or the possible costs associated with such a proposal.

The District notes that although 5 of the 8 districts in the Conference have such a benefit, none of the contiguous districts have such a provision.

In addition, several of the early retirement benefits in the Conference districts are not at all equivalent to the Union's proposal. In the Durand District, the teachers must maintain their own health insurance through payments to the District, and in Mondovi, the early retirement plan is limited to the continuation of health insurance benefits paid by the District.

Therefore, the District contends that even within the Middle Border Conference, there are not sufficient comparables to justify adoption of the Union's position.

The District further points out that the statutes that authorize early retirement plans in conjunction with the State Teacher Retirement System ^{2/} also provide for termination of such arrangements on January 1, 1983 except for those persons electing to participate prior to that date.^{3/} At that time the program will be reconsidered by the Legislature.

The District therefore argues that uncertainty as to the continuation of the plan coupled with the obligation to negotiate the impact of any changes in the plan as proposed by the Union creates an unreasonable obligation for the District.

Discussion

Although five of the ten comparable school districts have an early retirement benefit in effect, only three specifically provide both for retirement benefits as well as paid health insurance coverage. The Mondovi contract makes no reference to early retirement benefits, and Durand does not provide for paid health insurance

^{2/} Wis. Stats. 42.245 (2) bm.

^{3/} Wis. Stats. 42.245 (2) bm (1).

coverage. Therefore, it cannot be said that it is the practice in the majority of comparable districts to provide an early retirement benefit as generous as that proposed by the Union.

On the other hand, there does appear to be a willingness among half of the comparable districts to afford teachers some incentives for early retirement. Accordingly, the District's position appears to be somewhat deficient in this regard.

Although neither of the party's positions on this issue is readily supported by the use of comparables, the undersigned believes that the District's position is slightly more in accord with the prevailing practice among comparables than the Union's and therefore, it is deemed to be less unreasonable than the Union's position. To a large extent however, the outcome of this issue will depend upon the relative reasonableness of the parties' positions on the other issues in dispute; when said positions are viewed in their entirety.

Make Up Days

The District has proposed making up all days that schools are closed for emergencies, while the Union has proposed that the third day that schools are closed for such purposes not be made up.

The parties have agreed on a 1980-81 calendar which designates two snow days. If there were a third snow day, under the Union's proposal, it would not be necessary to extend the calendar into June unless there were four or more such days.

Arguments

The Union contends that this modest proposal would save the District money since buses would run one day less if this were utilized. In addition, the quality of education on a previously unscheduled day at the end of the year is questionable, in the Union's view.

Lastly, the Union contends that within the Conference there are two districts that make up fewer snow days and two others which have more flexibility on the issue than the District's final offer.

The District contends that its position on make up days is no different than the majority of comparable districts. The Districts of Ellsworth, Hudson, Mondovi, New Richmond (79-80) and River Falls either require teachers to make up the days or leave the issue to the Board's discretion.

While the District's proposal calls for making up all of the days, the District notes that it could decide not to make up one or more days.

Of the contiguous districts, the districts of Osceola, St. Croix Falls and Turtle Lake (79-80) also require that the days be made up or leave the matter to the Board's discretion.

Thus, the District argues that the Union has not demonstrated through comparables or by the actions of the District that the District's offer is not reasonable.

Discussion

The calendar issue in all likelihood is a moot issue for the current year, though it may have some impact on the negotiation of future calendars.

Although there is probably merit to the Union's assertion that the quality of education on a previously unscheduled day at the end of the year is questionable, the quality of the educational experience in the classroom on such a day is substantially within the control of the teacher, and therefore, said argument could be made as being applicable to a variety of days during the school year, for example, the day before holidays, the last day of school, etc.

Accordingly, absent a persuasive substantive reason by either party in support of their respective positions on this issue, the practice in comparable districts would appear to be the most relevant criterion to utilize in deciding the issue. In that regard the District's proposal would appear to be more consistent with the practice in existence in the majority of the comparable districts, and

accordingly, said position is deemed to be the more reasonable of the two. Perhaps it should be noted that this conclusion is based in part on the premise that the District does not construe its position as mandating that the third day be made up, but only that it has the discretion to require same in the event it deems it to be sound educational policy to do so.

Total Final Offer

Arguments

The District believes that the issues of salary (and longevity), early retirement and the staff reduction issues are of primary importance in resolving this dispute.

The District notes that during this round of bargaining the District has offered three new benefits: dental insurance, disability insurance and longevity payments. These benefits are in addition to a substantial wage offer and a seniority based staff reduction provision. All of the above constitutes a more than reasonable offer which should be adopted.

The Union asserts that its offer is superior because in a year when there is no question of ability to pay, it comes closer to maintaining the relative salary position of the District's teachers in the Middle Border Conference, and obtaining items, such as early retirement and long-term disability benefits, which would bring the District's teachers closer to the average among comparables.

Discussion

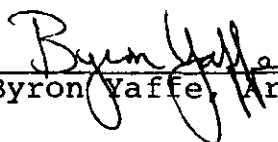
As the undersigned has indicated in several instances in the above discussion, neither party's position is unsupportable when analyzed in light of the statutory criteria set forth in 111.70(4)(cm) Wis Stats. The undersigned has therefore had to carefully assess the merits of the parties' final offers in order to determine their relative reasonableness. In doing so, for the reasons discussed above, the undersigned has determined that the Union's proposals on salaries, layoffs, and long-term disability are slightly more reasonable than the District's, even though the Union's final offer on layoffs raises some disturbing questions which need to be addressed in future negotiations. On the other hand, the District's position on early retirement and make up days is slightly more defensible than that of the Union.

Based upon all of the foregoing considerations, and the fact that there has been no showing that the Union's final offer is "out of line" with the value of settlements in comparable districts, nor that the District cannot afford to fund such a settlement without making unreasonable accommodations in other areas of the budget, the undersigned concludes that the Union's final offer is the more reasonable of the two final offers which have been submitted in this proceeding.

AWARD

The 1980-81 agreement between the Amery Board of Education and Northwest United Educators--Amery should include the final offer of the Union which has been submitted herein.

Dated this 24th day of March, 1981 at Madison, Wisconsin.


Byron Vaffe, Arbitrator